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Life in the 2023 List and the Future of Business Rates

Presented by:

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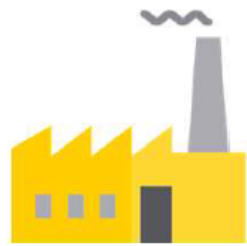
Richard Williamson – GLH

Agenda

- 1 2023 Rating List – Impact By Sector
- 2 Where Are We Now?
 - Closing Out The 2017 List
 - Live Consultations
 - NNDR Bill
- 3 Case Law Impact
 - Acenden / Tenant Fit
- 4 The Road Ahead
 - Duty To Notify
 - Land Value Tax and the Future of Business Rates

2023 Rating
List – Impact
By Sector

RV Changes by Sector



34,000 industrial properties

27% of local list



+12%
RV Increase



+28%
RV Increase



30,000 retail

25% of local list



-10%
RV Decrease



-10%
RV Decrease



20,000 offices

11% of local list



+6%
RV Increase



+10%
RV Increase



44,000 other

37% of local list



+2%
RV Increase



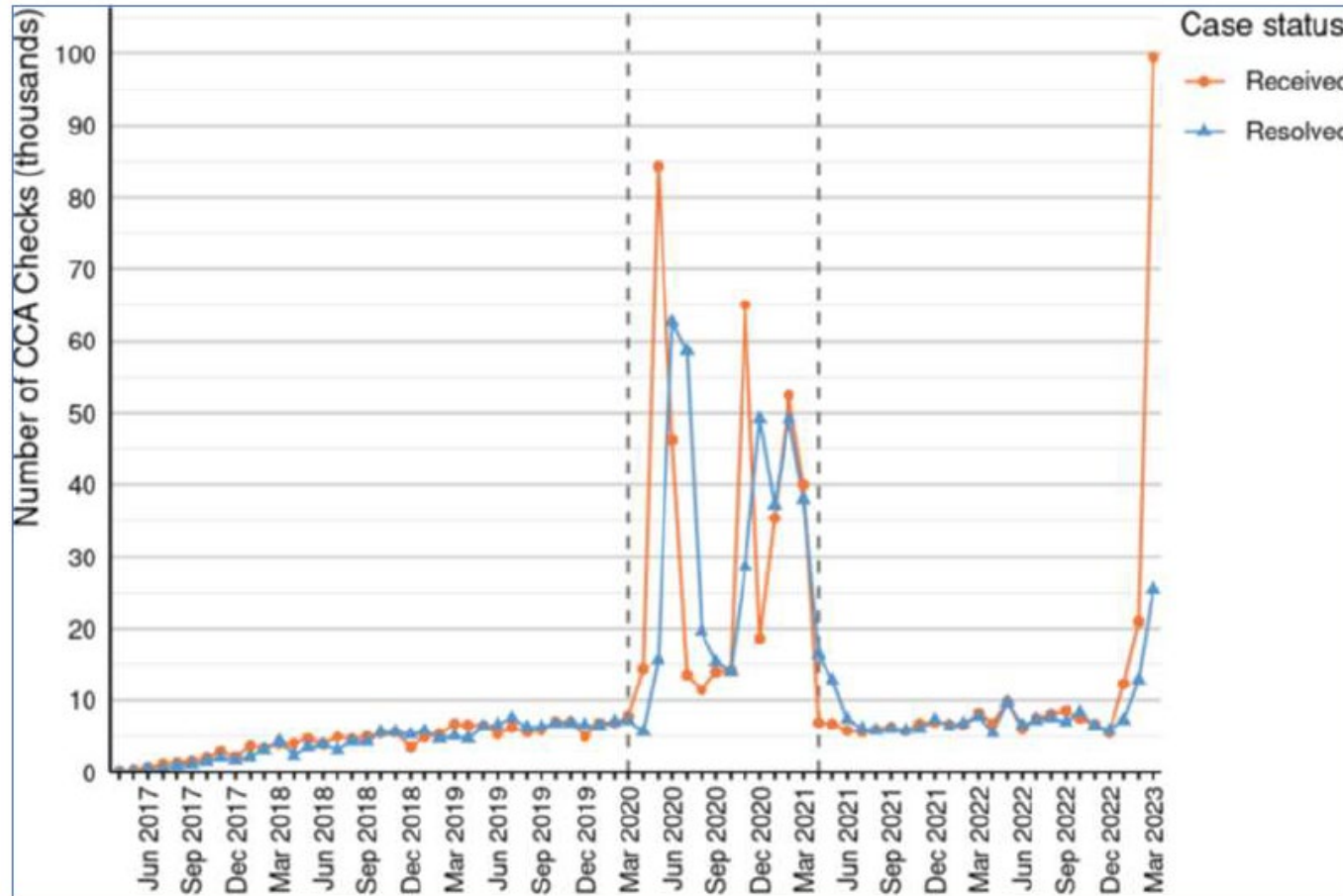
+4%
RV Increase

Where Are We
Now?



2

- Closing out the 2017 List
Resources will be tested in the months ahead



- Checks registered in England 01/01/23 – 31/03/23: 132,690 (up from 19,660 in the previous quarter)
- Challenges registered in England 01/01/23 – 31/03/23: 5,060 (up from 4,360 in the previous quarter).
- BUT – VOA considers CCA a success:
- 2010 List = 1,130,000 Proposals (Challenges)
- 2017 List = 141,410 incl 55,570 relating to Covid

2017 List still open for business?

England



1. Where Check confirmations were submitted PRIOR TO 31st March 2023 - Challenges can be made:
 - Within 4 months of the Check being completed
 - Within 16 months of a previous “External factors” MCC Check confirmation date

2. New Challenges can also be submitted if a Check confirmation is provided to the VOA:
 - Within 6 months of a VON (VOA Can update the 2017 List until 31st March 2024)
 - Until 30 September 2023 to reflect a relevant Court Decision (Reg 14 2B does not apply to 2017 List – SI2017/155 and not replicated in 2022 “end of List” regs SI2022/1198)

3. **BUT** – Checks now HAVE to be submitted in respect of the 2023 List entry; no Checks can be submitted against the 2017 List RV post 1/4/2023.

Closing out the 2017 List - Ratepayer functionality issues.

England



- Where client instructions have migrated – two agents can now exist on the portal but even though Check is List "agnostic", 2017 List agent essentially needs to submit a 2023 List Check
- Issues can arise if the 2017 List entry has been deleted/re-constituted pre 31/3/2023 and no 2023 List entry exists – manual service on the VOA then required
- The timer is ticking once a Check is completed - a 4 month window opens for a Challenge – “incomplete” Challenge determinations (where rent differs from VOA) can be served at any time.
- BUT: Ratepayer only receives the balance of the 4 month period calculated from when the Challenge was originally submitted at the point Challenge deemed "incomplete"
- Lesson is to serve Challenges as soon as possible after Check Decision Notices have been issued

Closing out the 2017 List – Collaborate with the VOA better?

Routes to deal practically with bigger issues



- GPCR system has proven to be a vehicle for more informal and much more efficient discussions between agent and VOA.
- Food sector engagement post Supreme Court decision has shown collaboration with VOA can work on a grand scale – efficient and effective engagement for 2010 now carrying on for 2017.
- Where else could this apply?
- 2017 Check No's now known - GPCR requests for 2017 could be re-opened. VOA keen on new GPCR's for 2023 but 2017 needs to be resolved first. Is there a case for a return to Programming?
- Department store MCC's would lend itself as an issue to a national discussion
- VOA considering a strategic VOA/Agent forum – VOA wants to know what is coming down the tracks, agents want to flag issues & tee up strategic discussions to discuss resolution. RSA led?
- 2017 is a numbers game now and we need to clear the decks to be able to focus on 2023 – could 2017 discussions be a catalyst for simultaneous 2023 discussions/GPCR's or vice versa?

Live and Future Consultations



- Improvement Relief (closes 28 August)

<https://www.gov.uk/government/consultations/business-rates-improvement-relief-draft-regulations>

- Improvement Relief Wales (closes 08 August)

<https://www.gov.wales/consultation-improvement-rates-relief-html>

- Renewable Energy Relief Wales (closes 15 August)

<https://www.gov.wales/consultation-renewable-energy-rates-support-html>

- Anecdotally: There will likely be a consultation of mitigation/avoidance in the Autumn following BA pressure to align with Wales/Scotland.

NNDR Bill



Reval, Review and a Bill

- Business Rates Review and Technical Consultation
- Non-Domestic Rating Bill
- Passing through parliament as we speak - now in the Lords
- Covers off a wide range of largely administrative/previously announced reforms

UK Parliament
Parliamentary Bills
House of Commons

UK Parliament > Business > Legislation > Parliamentary Bills > Non-Domestic Rating Bill

Non-Domestic Rating Bill

Government Bill

Originated in the House of Commons, Session 2022-23
Last updated: 23 May 2023 at 11:18

Commons Lords Final stages

See full passage

Details News Stages **Publications**

Long title

A Bill to make provision about non-domestic rating.

Sponsoring department

Department for Levelling Up, Housing and Communities

Michael Gove
Conservative, Surrey Heath

Current version of the Bill

Bill 285 2022-23 (as introduced) Get File

22 March 2022 Comment

Bill passage

Bill started in the House of Commons	Bill in the House of Lords	Final stages
<input checked="" type="checkbox"/> 1st reading	<input type="checkbox"/> 1st reading	<input type="checkbox"/> Consideration of amendments
<input checked="" type="checkbox"/> 2nd reading	<input type="checkbox"/> 2nd reading	<input type="checkbox"/> Royal Assent
<input checked="" type="checkbox"/> Committee stage	<input type="checkbox"/> Committee stage	
<input type="checkbox"/> Report stage	<input type="checkbox"/> Report stage	
<input checked="" type="checkbox"/> 3rd reading	<input type="checkbox"/> 2nd reading	

Key Complete In progress Not applicable Not yet reached

NNDR Bill

1 - Improvement Relief

- Policy objective: to help occupiers make improvements to their existing premises, NOT to subsidise general commercial property development.
- Property must, from when the works commence, remain in the list AND be occupied by the same person. New builds and refurbishments which have left the list not eligible.
- VOA will certify the change in rateable value attributable to qualifying improvements.
- Examples: Increases to area of a building, improve physical state (Mezzanines) or add P&M.
- BA apply the occupation condition.
- 12 months relief
- Starts – works completed on/after 1 April 2024
- End – works completed before 1 April 2028 (works completed 31/3/28 get 12 months relief)
- Will review in 2028. Powers in Bill to extend 2028 and 12 months.
- Detail in draft regs – Consultation out.

NNDR Bill

2 - MCC reform

- Revaluations reflect changes in economic factors, market conditions and changes in the general level of rents. MCCs should not.
- Principle accepted by Parliament for Covid. Changes in legislation, guidance and advice from public bodies should not be an MCC.
- Economic factors and market conditions for a property will now be reflected and frozen at the AVD.
- Clause 14 now delivers that permanently.
- Parameters of this are important.
 - Applies only to:
 - Physical enjoyment of hereditament
 - Physically manifest in the locality
 - Use or occupation of other premises situated in the locality
 - Does not apply to:
 - Physical state property.
 - Mode or category
 - Physical state of locality.
 - Domestic/non-domestic. Exempt.
- These factors will be reflected at the next revaluation.

NNDR Bill



3 - Revaluation dynamics and TR

- Annual revaluations will be considered in the future. Not something which is appropriate for a “power” in the Bill – needs political decision.
- AVD is also NOT in the Bill – that is a matter set by regulation. 2 year AVD has been set for 2026.
- Aspiration is to reduce the AVD in future revaluations but no guarantees.

Transitional Relief.

- Currently required by law to have regard to object of TR being self-funding. Led to downward caps.
- Bill (Clause 6) will remove requirement for revenue neutral. Remove the need for downward caps.
- Bill also removes from the 23 TR regs the supplement in year 5.
- Last bit of jigsaw in scrapping downwards transition.

NNDR Bill



Rest of the Bill – a "pick 'n mix" of reforms

- Multiplier changes. Switch to CPI cap for both multipliers. Power to set who pays which
- Discretionary relief. End limitation on backdating decisions
- Completion notices. Close gap for refurb
- Central List. Replacing regulations with directions
- Various other bits
- Bill has to pass through Lords
- Different Commencement dates:
 - Reliefs from 1/4/24
 - MCC on Royal Assent
 - Duties by regulation (i.e. Ministers decide when to commence)

Case Law
Impact



3

Dawn Bunyan (VO) v Acenden Limited LC-2021-478

The Dispute:

- The value of the hereditament reflecting the tenant's rateable fit out
- VO seeking £230/m² based on fit-out costs incurred
- Agent seeking £166/m² Cat A rental level or £181/m².

- Question – should Cat B necessarily produce higher RV?
- Question – If so how to value any increase for fit-out
- Determined by UT at £212/m² (£1m RV)



Dawn Bunyan (VO) v Acenden Limited LC-2021-478



The Takeaways:

- Fit out adds value for rating purposes.
- Rating hypothesis envisages the value to an occupier who is actively seeking and wants the premises as they are.
- Comparable rental evidence of fitted premises is preferred.
- Amortisation of costs is a valid analysis towards considering a tenant's bid in the absence of reliable rental evidence. It is not a contractor's test valuation.
- Amortisation of incentives should be to the lease term/break.

- “We have firmly rejected the proposition that a building in Category B condition is worth no more than a building in Category A condition”

Dawn Bunyan (VO) v Acenden Limited LC-2021-478



Maidenhead Nuts & Bolts:

- Total fit out = £720 psm of which £330 psm rateable
- Annual RV equivalent (by deduction) = £46 psm (higher if to break)
- Generic & unexceptional
- Starting point for London therefore £46 psm ?
- What about the local rental evidence?

London Offices Solution:

- Assume £50 psm year 1
- Depreciated on a straight line over 10 years
- Assume £nil year 10
- Mid-point = £25 psm – an accommodation to solve a problem
- Applies to 2017 list
- Applies to Grade A Central London offices only

The Road
Ahead



4

Duty to Notify & Digitalisation of Business Rates

NDR BILL PROVIDES THE PAVING LEGISLATION – REGS & TIMING OF INTRODUCTION LESS CERTAIN

Timeline	Who is this for?	Duty to provide:	Timeframe to comply with duty	Compliance	How?	Additional costs per year for a ratepayer to comply with the new duty
<ul style="list-style-type: none"> • 2023 Rating List • Phased Launch 	<ul style="list-style-type: none"> • Occupier • Person(s) entitled to occupy • Owners 	<ul style="list-style-type: none"> • Tenure • Lease Details • Areas • Occupation and vacation dates • Rent / Lease changes • Alterations to a property • Trade accounts or costs • Tax reference Numbers 	<ul style="list-style-type: none"> • Within 60 days of change to occupier / owner or property <p><i>AND / OR</i></p> <ul style="list-style-type: none"> • Annual Return <p><i>AND / OR</i></p> <ul style="list-style-type: none"> • 60 days after the 30th April for Trade accounts / costs and Tax reference numbers 	<ul style="list-style-type: none"> • Reminders • Warnings • Penalties <p>Failure to Provide</p> <ul style="list-style-type: none"> • 2% of RV with • Min £300 <£15K RV • Min £600 <£51K RV • Min £900 >£51k RV <p>False Information</p> <ul style="list-style-type: none"> • £500 plus • 3% of RV change 	<ul style="list-style-type: none"> • Online Portal • Potential for bulk upload 	<p>Year 1</p> <ul style="list-style-type: none"> • > £50 per property <p>Following Years</p> <ul style="list-style-type: none"> • > £35 per property

Land Value Tax & Where Next For Business Rates

CBRE

GL Hearn
member of WSP

BUSINESS RATES REFORM OPTIONS BEING FLOATED BY THE INDUSTRY

//
Just cut the multiplier and recover the revenue from someone else. //

//
Annual revaluations would remove most distortions – but can the VOA deliver that? //

//
The reliefs system is too complicated and needs to be simplified so that it's fairer. //

//
The valuation date should be one year before, not two years before, to keep up with the market. //

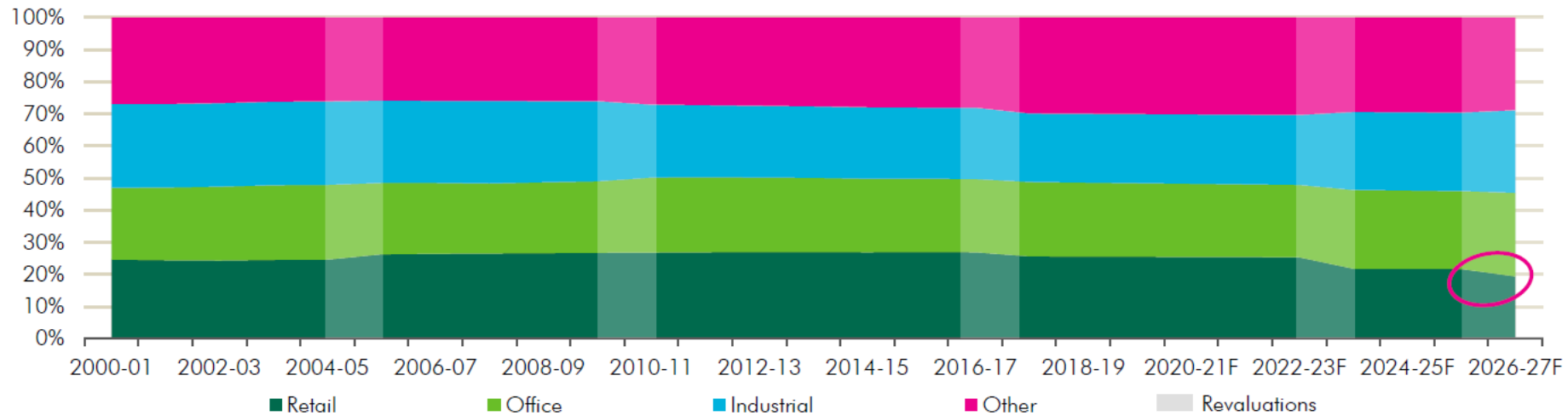
//
The multiplier should be fixed rather than being reset at each revaluation. //

//
There's no objection to tax – it's the level playing field with online retailers that matters. //

Source: CBRE Research – anecdotal views received.

Land Value Tax & Where Next For Business Rates

SHARE OF RATEABLE VALUE BORNE BY PROPERTY SECTOR, % (2000/01 2019/20 ACTUAL; CBRE 2020/21 2026/27 FORECAST)



Retail will bear just 19% of business rates by 2026, down from 27% at its recent peak in 2016.

Both Office and Industrial will each represent 26% of RV, up from 22% in 2016.

Land Value Tax & Where Next For Business Rates

THE TREASURY'S 'FUNDAMENTAL' REVIEW, DECODED

Business rates are an annual tax on non-domestic property. They raise approximately £25 billion in England each year, and are an important source of funding for local services, including adult social care and children's services.

Building on the work of previous reviews, the government's general view is that in common with other advanced economies, revenue should continue to be raised through the taxation of non-residential land and property.

Business rates are less distortive than other taxes, easy to collect and hard to avoid. However, the government also recognises concerns about the impact of business rates on ratepayers, including on the high street, and the potential need to modernise our tax system.

HM Treasury will conduct a fundamental review of business rates with the objective of:

- reducing the overall burden on businesses
- improving the current business rates system
- considering more fundamental changes in the medium-to-long term

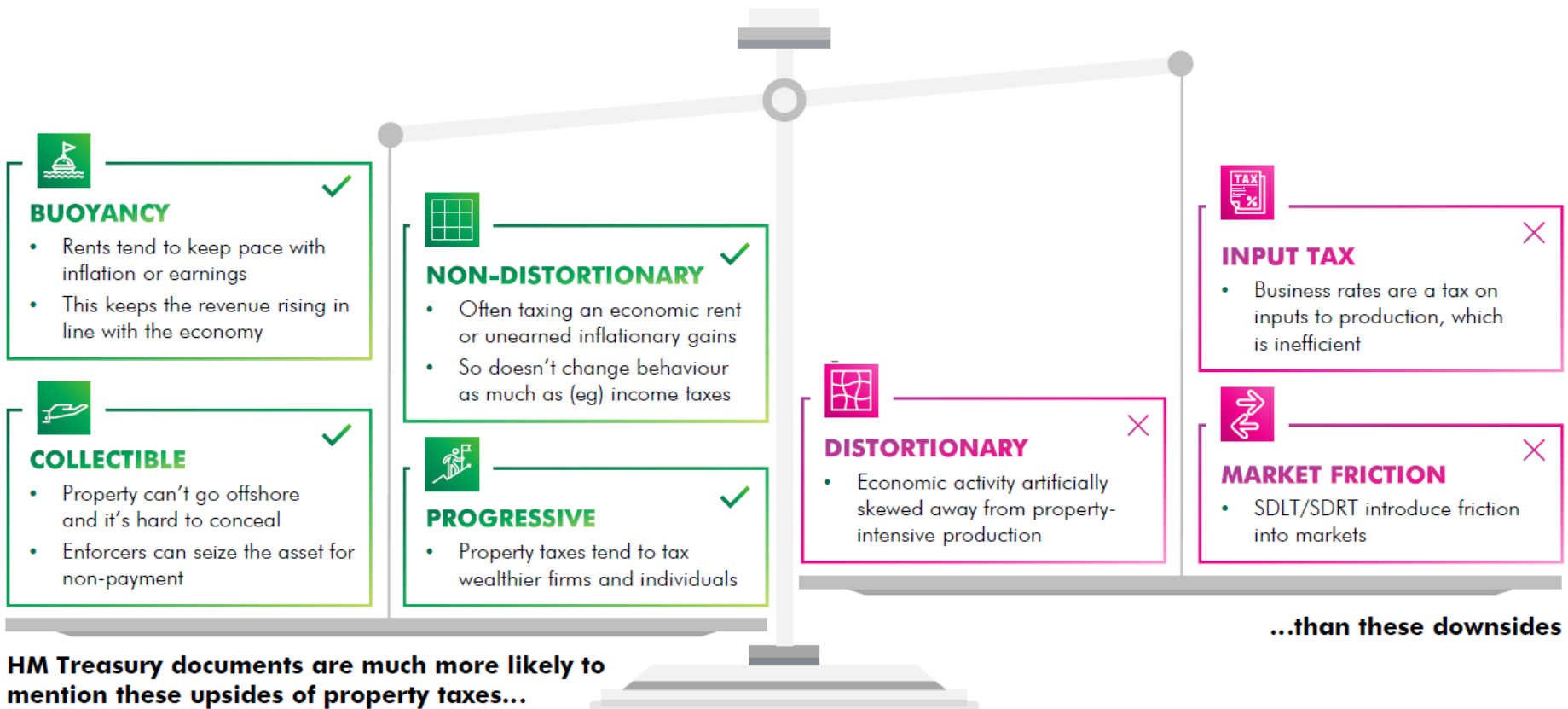
The work of the review will focus on 4 main areas: These are:

- improvements that could be made from April 2021, alongside the forthcoming revaluation including regarding the Transitional Relief Scheme
- reforms to the current business rates system to put the tax on a more sustainable basis. This will include:
 - whether a tax on open market rental values remains the best base for commercial property
 - how open market rental values are determined, and how often
 - the effectiveness and operation of different reliefs
 - how to minimise the impact of business rates on investment and growth, including the treatment of plant and machinery
 - how the business rates multiplier(s) should be set
 - who pays the tax
- the administration of business rates, covering the valuation and appeals process; billing; and compliance with the tax
- exploring alternatives to business rates, particularly within the taxation of land and property.

The fundamental bit →

Land Value Tax & Where Next For Business Rates

FOR THE UK GOVERNMENT, THE BALANCE OF ARGUMENTS FAVOURS PROPERTY TAX



Land Value Tax & Where Next For Business Rates

CBRE



PROPERTY TAX IN 2030: A POSSIBLE PEN PICTURE

BUSINESS RATES HERE TO STAY?

- Continued **tactical management** by HM Treasury to remove most controversial elements and widen the tax base
- Possibly evolving into a formal **Land Value Tax** in the long term but with formidable practical challenges
- So **extension of business rates tax base** more likely simplified reliefs, plus inclusion of vacant, derelict or agricultural land as well as empty property.

CBRE



Thank you & Questions